

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA

MICHAEL T. STEPHENS,

Plaintiff,

v.

NICHOLAS MOSHER, et al.,

Defendants.

CIVIL ACTION NO. 3:22-CV-00645

(MEHALCHICK, J.)

ORDER

Presently before the Court is the report of Judge Carlson ([Doc. 9](#)), recommending the Court dismiss for failure to prosecute. Neither party filed objections to the report, and the time within which they could do so has passed.

Where no objection is made to a report and recommendation, the court should, as a matter of good practice, “satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” Fed. R. Civ. P. 72(b), advisory committee notes; *see also Univac Dental Co. v. Dentsply Intern., Inc.*, 702 F.Supp.2d 465, 469 (M.D. Pa. 2010) (citing *Henderson v. Carlson*, 812 F.2d 874, 878 (3d Cir. 1987) (explaining judges should give some review to every report and recommendation)). In any event, whether timely objections are made or not, the district court may accept, not accept, or modify, in whole or in part, the findings or recommendations made by the magistrate judge. 28 U.S.C. § 636(b)(1); Local Rule 72.31.

Since the report correctly states the procedural and factual background of this case, it will not be repeated herein. ([Doc. 9](#), at 1-3). In sum, Plaintiff Stephen Mosher (“Mosher”) initiated this *pro se* action by filing a complaint May 2, 2022. ([Doc. 1](#)). The complaint was received without a filing fee or a proper motion to proceed *in forma pauperis*. On June 28,

20243, the Court directed Stephens to either submit payment of applicable filing fee in the amount of \$402.00 or file a properly completed application to proceed *in forma pauperis*. (Doc. 8). Stephens failed to respond to the Court June 28, 2023, Order.

Judge Carlson conducted an extensive analysis to determine whether the case should be dismissed under Rule 41(b) of the Federal Rules of Civil Procedure for failure to prosecute or comply with court orders. The report reviews the well-known factors under *Poullis v. State Farm Fire and Cas. Co.*, 747 F.2d 863, 868 (3d Cir. 1984), which guide courts in the Third Circuit when analyzing a failure to prosecute. Judge Carlson found all of the six *Poullis* factors weigh in favor of dismissal. (Doc. 9, at 10). Notably, Judge Carlson found Stephens appears to have willfully failed to prosecute his claims and follow court orders. (Doc. 9, at 3)

Upon review, the Court agrees with the sound reasoning that led Judge Carlson to his conclusion in his report and discerns no error of law. Accordingly, **IT IS HEREBY ORDERED THAT** the report and recommendation of Judge Carlson (Doc. 9) is **ADOPTED IN ITS ENTIRETY AS THE OPINION OF THE COURT**, and the Clerk of Court is directed to **CLOSE** this case.

Dated: April 5, 2024

s/ Karoline Mehalchick
KAROLINE MEHALCHICK
United States District Judge